

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF PROPOSED
Rule I pertaining to renewal fees for	)	ADOPTION AND AMENDMENT
mortgage brokers, mortgage lenders,	)	
and mortgage loan originators, and	)	NO PUBLIC HEARING
the amendment of ARM 2.59.1708	)	CONTEMPLATED

TO: All Concerned Persons

1. On October 24, 2011, the Department of Administration proposes to adopt and amend the above-stated rules.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on October 14, 2011, to advise us of the nature of the accommodation that you need. Please contact Wayne Johnston, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2918; TDD (406) 444-1421; facsimile (406) 841-2930; or e-mail to [banking@mt.gov](mailto:banking@mt.gov).

3. The rule proposed to be adopted provides as follows:

NEW RULE I RENEWAL FEES (1) Licenses issued under Title 32, chapter 9, part 1, MCA, expire December 31. Licensees shall submit their renewal applications by December 1 of each year to assure issuance of the license to qualified renewal applicants by January 1 of the following year. The renewal fees for the license period January 1 through December 31 are:

Mortgage Broker Entity	\$500.00
Mortgage Broker Branch	\$250.00
Mortgage Lender Entity	\$750.00
Mortgage Lender Branch	\$250.00
Mortgage Loan Originator	\$400.00

(except as provided in 32-9-117(1)(b), MCA)

AUTH: 32-9-117, 32-9-130, MCA  
IMP: 32-9-117, MCA

STATEMENT OF REASONABLE NECESSITY: This rule is being adopted because its original version, ARM 2.59.1729, was unintentionally repealed in February 2010 in MAR Notice No. 2-59-414. There is no change to the renewal fees, which are equivalent to what has been charged previously. The division is proposing to adopt the renewal fees listed above because the department is self-funded through its licensing fees.

The department has chosen the amounts that are contained in this rule because they are the same as the initial license application fees in statute. In the case of a mortgage broker who is both an individual licensee and the sole owner of a mortgage broker entity, the division has chosen to charge one \$500 fee for renewal instead of charging two \$500 fees for renewal, because 32-9-117, MCA, provides that an individual who is seeking licensure as a mortgage loan originator and who is an owner of an entity that is seeking licensure as a mortgage broker shall pay a single initial nonrefundable license application fee of \$500. The department has carried that forward in the proposed fees for renewal because the department does not believe it would be fair to charge an individual who is licensed as a mortgage loan originator as well as a mortgage broker entity both renewal fees. However, the division has always charged an entity a separate renewal fee because the entity has a legal existence which is separate from the individual license holder. Entities are charged a separate initial application fee by statute and should be charged a separate renewal fee as well.

Therefore, there is no anticipated increase or decrease in revenue resulting from this rule. There are currently 68 mortgage broker entities, 34 mortgage broker branches, 100 mortgage lender entities, 96 mortgage lender branches, and 815 mortgage loan originators licensed in Montana.

4. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

2.59.1708 TABLE FUNDING REQUIRES LICENSURE (1) Any person not exempted from the Montana Mortgage ~~Broker, Mortgage Lender, and Mortgage Loan Originator~~ Licensing Act under 32-9-104, MCA, who closes a mortgage loan naming themselves as the lender and who, within three business days of closing, consummates sale of the mortgage loan note to another party, commonly known as "table funding" as defined in ARM 2.59.1701, must be licensed as a mortgage broker or loan originator.

AUTH: 32-9-130, MCA

IMP: 32-9-102, ~~32-9-103~~, MCA

STATEMENT OF REASONABLE NECESSITY: This rule is being changed in order to make it consistent with ARM 2.59.1701(6), which defines table funding as the closing of a loan naming a mortgage broker, mortgage broker's business entity, or mortgage loan originator as the lender on the mortgage loan note, which note is then sold within three business days of closing to another party. In order to make ARM 2.59.1708 consistent with ARM 2.59.1701(6), "business" day is being added to ARM 2.59.1708. This consistency is important because in the absence of it, one would have to assume that two different times are meant which is not, in fact, the case. In addition, the title of the Act is being changed to match its revision in 2011 HB 90. Section 32-9-102, MCA, is being added as it provides for the overall licensing requirements for mortgage brokers, mortgage lenders and mortgage loan originators. Section 32-9-103, MCA, is not implemented by this rule and is therefore being removed.

5. Concerned persons may present their data, views, or arguments concerning the proposed action to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; or e-mailed to [banking@mt.gov](mailto:banking@mt.gov); and must be received no later than 5:00 p.m., October 21, 2011.

6. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the person listed in 5 above at the above address no later than 5:00 p.m., October 21, 2011.

7. If the Division of Banking and Financial Institutions receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 111 persons based on the number of licensed mortgage brokers, mortgage lenders, and mortgage loan originators.

8. An electronic copy of this Proposal Notice is available through the department's web site at <http://doa.mt.gov/administrativerules.mcp>. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that if a discrepancy exists between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The Division of Banking and Financial Institutions maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this division. Persons who wish to have their name added to the mailing list shall make a written request which includes the name, mailing address, and e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written requests may be mailed or delivered to Wayne Johnston, Division of Banking and Financial Institutions, 301 S. Park, Ste. 316, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; e-mailed to [banking@mt.gov](mailto:banking@mt.gov); or may be made by completing a request form at any rules hearing held by the department.

10. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

By: /s/ Janet R. Kelly  
Janet R. Kelly, Director  
Department of Administration

By: /s/ Michael P. Manion  
Michael P. Manion, Rule Reviewer  
Department of Administration

Certified to the Secretary of State September 12, 2011.